UNITED
NATIONS

S

Security Council

Distr.
GENERAL

S/22957
16 August 1991
ENGLISH
ORIGINAL: ARABIC

LETTER DATED 16 AUGUST 1991 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the statement that I made before the Security Council at its meeting held on 15 August 1991. At that time I stated that, because of the time constraint and the length of the statements that I had prepared on the draft resolutions subsequently adopted by the Council on the same day as its resolutions 705, 706 and 707 (1991), I would present only a summary of Iraq's position with regard to resolutions 705 and 707.

Accordingly, I am sending you the full texts of the statements relating to our position on the two aforementioned resolutions.

I should be grateful if you would have these two statements circulated as a document of the Security Council.

(Signed) Abdul Amir A. AL-ANBARI
Ambassador
Permanent Representative

Annex I

Statement by Mr. Abdul Amir A. Al-Anbari to the Security Council at its meeting on 15 August 1991

Mr. President,

I should like to tell you once again how much my delegation appreciates the wisdom with which you have been directing the Council's work since you became President for the month of August.

The Council is meeting today to consider the recommendation made by the Secretary-General in his letter dated 31 May 1991 (S/22661), namely that the contribution to be levied on Iraq's petroleum reserves should be limited to 30 per cent. It also appears that the contribution would begin to be deducted as soon as petroleum exports resume. In this connection, I would like to reiterate what the Iraqi Minister for Foreign Affairs said in the letter which he sent to the President of the Security Council for May 1991, and also what was said in note No. 124 dated 27 May 1991 from the Iraqi Mission, annexed thereto, before explaining to the Council why it should lower the level of the contribution and defer the date on which the contribution would begin to be levied.

The Iraqi Mission has already sent the Secretary-General an official report (annexed to its note No. 72 of 29 April 1991) on Iraq's economic situation, for him to take into account in calculating the contribution referred to in paragraph 19 of Security Council resolution 687 (1991).

The Iraqi Mission also requested the Secretary-General, in its note No. 77 of 1 May 1991, to bring the aforesaid report to the attention of members of the Council. We appreciate the fact that, in proposing a 30 per cent ceiling, the Secretary-General has sought to take account both of the report and of the considerations mentioned in paragraph 19 of resolution 687 (1991). None the less, my Government, which is a daily witness to the sufferings endured by the Iraqi population of all social classes and to the economic difficulties faced by Iraq as a society and a State as a result of the continuation of the embargo imposed on Iraq on 6 August 1990, considers it useful to recall the three considerations which must, according to paragraph 19 mentioned above, be taken into account in determining the level of the contribution, namely:

- the requirements of the people of Iraq;

- Iraq's payment capacity in the light of its external debt service;

- the needs of the Iraqi economy.

These considerations are neither static nor fixed; on the contrary, they are constantly evolving: the situation is in fact becoming increasingly critical and is deteriorating steadily both as a result of the continued embargo on Iraqi imports and on Iraq's petroleum exports and because certain States members of the Sanctions Committee have managed to prevent the implementation of paragraph 23 of resolution 687 (1991) providing for exceptions to be made to the prohibition against the export of Iraqi petroleum in order to finance the purchase of foodstuffs and other products. The international press, in particular The Washington Post of 23 June 1991 and The New York Times of 25 June 1991, and also the study published by a Harvard University medical mission which visited Iraq, the exhaustive report entitled "Modern warfare and the environment: a case study of the Gulf war" published by Greenpeace last May and the even more detailed report of the mission headed by Prince Sadruddin Aga Khan, Executive Delegate of the Secretary-General, have established objectively and impartially, with supporting facts and statistics, that the 42 days of air raids against Iraq inflicted damage on the economic and industrial infrastructure and on the means of modern life which, like the social, economic and health consequences of the bombing, was far more serious than reported in the military communiqués and preliminary assessments issued during and after the cessation of military operations. Likewise, the continuation of economic sanctions despite Iraq's acceptance of all the relevant Council resolutions and its full cooperation with the commissions and missions sent by the United Nations, and the failure of the Sanctions Committee to approve the resumption of petroleum exports under the exception provided for in paragraph 23 of resolution 687 (1991), are likely to perpetuate the consequences of the savage bombing raids on Iraq, thereby affecting future generations, the environment and Iraq's economic means of development. We are forced to ask ourselves, therefore, what is the real purpose of continuing the embargo against the Iraqi people and insisting that Iraq may not benefit from the exception provided for in paragraph 23 of resolution 687 (1991).

It is no exaggeration to say that continuing the embargo goes beyond the goals pursued by the Security Council and that the serious consequences of such a course, which include the spread of epidemics, will sooner or later affect the other countries of the region at the least.

Let me now give a conservative assessment of Iraq's financial obligations with respect to servicing its external debt, as well as of the basic needs of the Iraqi population in terms of food, medical and other supplies and the requirements for the reconstruction of the country's economic infrastructure as provided for in paragraph 19 of resolution 687.

On 31 December 1990, Iraq's external debt and financial commitments amounted to more than 13,118,000,000 dinars or more than $42,097,000,000, not taking into account the interest on these debts, namely an outstanding amount of $3.4 billion (one dinar equals about $3.20 at the official rate). These debts represent for the Iraqi economy 65 per cent of GDP, and 97 per cent of them are scheduled for repayment over the coming five years. For this reason, we have requested - as I shall explain below - a five-year grace period in order to enable us to honour these debts.

As for the basic needs, which relate also to imports or the replenishment of food reserves, primary commodities and the expenditures to be incurred on partially repairing the damaged facilities in the civilian and public sector and relaunching the development projects that were under way before the embargo, these are estimated at $140 billion, or $28 billion a year over the period 1991-1995. This figure represents only 60 per cent of the total expenditure, i.e. solely the portion in foreign currency.

Before concluding, I should like to recall paragraph 21 of resolution 687, which provides that the Security Council shall review the embargo on Iraqi imports, with a view to easing or lifting it in the light of the policies and practices of the Government of Iraq in terms of the implementation of all relevant resolutions of the Security Council. Despite its reservations regarding some of these resolutions, my Government has accepted them all and has sought to implement them in good faith and in full cooperation with the United Nations and the commissions and missions it has sent to Iraq with a view to the implementation of the resolutions in question. My Government has done practically everything called for in these resolutions, although their final implementation depends on the work programmes of the international commissions and missions established for this purpose. This may take a long time where certain aspects are concerned, such as the elimination of weapons of mass destruction, the demarcation of the international frontiers and other issues for which the Security Council has assigned responsibility to the Secretariat or the commissions or other bodies established for this purpose.

The measures taken by my Government in implementation of the Security Council resolutions have been described in detail by the Iraqi Minister for Foreign Affairs in his letter dated 8 June 1991 addressed to the Ministers for Foreign Affairs of some countries members of the Council; that letter is annexed hereto as an integral part of my statement.

Iraq accordingly has high hopes that the Council will review the provisions of the embargo - since more than 130 days have elapsed since the adoption of resolution 687 on 3 April 1991 - and that it will take a decision on this subject in the light of the considerations set forth above.

Annex II

Letter dated 8 June 1991 from the Minister for Foreign Affairs of Iraq addressed to a number of the Ministers for Foreign Affairs of the States members of the Security Council

As you are well aware, the Iraqi Government accepted Security Council resolution 687 (1991) and gave notice of its acceptance in its letter of 6 April 1991 addressed to both the President of the Security Council and the Secretary-General. I should like on this occasion to confirm to you that the Iraqi Government has complied with the said resolution and adopted a positive attitude towards it ever since its adoption. Allow me to review for you the measures taken in this connection by the Government of Iraq.

1. In connection with section A of the resolution, concerning demarcation of the boundary between Iraq and Kuwait, the Iraqi Government has appointed its representative to the Boundary Demarcation Commission, which held its first session of meetings in New York from 23 to 24 May 1991. Iraq's representative participated actively, in a constructive and cooperative spirit, in the work of that session.

2. In connection with section B of resolution 687 (1991), concerning deployment of the United Nations Iraq-Kuwait Observation Mission (UNIKOM), the competent Iraqi authorities have received the Chief Military Observer, Major-General Günther Greindl, on several occasions in Baghdad since his appointment, together with his assistants. Agreement was reached at these meetings on all the requirements for the deployment of UNIKOM in the demilitarized zone established under the resolution, which came into effect on 9 May 1991.

Cooperation between the competent Iraqi authorities and UNIKOM continues through the channels designated for that purpose between, respectively, the Iraqi Government, UNIKOM headquarters and the United Nations Secretariat.

3. In connection with section C of the resolution, which calls for a series of undertakings to dispense with weapons of mass destruction and neither to use, develop, construct nor acquire any such weapons, Iraq has deposited the instrument whereby the Republic of Iraq ratifies the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction, of 10 April 1972. Iraq has also affirmed its unconditional commitment to its obligations under the Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17 June 1925. In addition, the Iraqi Government has provided details of the locations, amounts and types of items relating to chemical weapons and ballistic missiles specified in the resolution and agreed to an inspection of the sites concerned, as laid down in the resolution.

Iraq has also unconditionally undertaken not to use, develop, construct or acquire any of the items specified in the resolution. It has affirmed its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of 1 July 1968 and unconditionally agreed not to acquire or develop nuclear weapons or nuclear-weapons-usable material. Iraq informed the International Atomic Energy Agency (IAEA), in a letter dated 27 April 1991 from the Minister for Foreign Affairs, that it was prepared to cooperate with the Agency in implementing the provisions of the resolution: the letter was accompanied by tables providing information on Iraq's nuclear facilities. Iraq has also provided detailed information on the situation with regard to other weapons covered by the resolution to the Special Commission established to implement section C.

In a letter dated 17 May 1991, Iraq agreed to the proposals contained in the Secretary-General's letter of 6 May 1991 concerning the privileges and immunities of the Special Commission and its visiting teams.

The nuclear weapons inspection team visited Iraq from 14 to 22 May 1991. On 23 May 1991, IAEA issued a statement affirming that Iraq had cooperated fully and responded to all the requests submitted by the inspection team. A chemical weapons inspection team, accompanied by the Chairman of the Special Commission, is to visit Iraq from 9 to 15 June in order to begin its mission. Iraq has made all the necessary arrangements to ensure that the inspection team's mission is a success.

4. In connection with section D of the resolution, which relates to the return of Kuwaiti property, Mr. J. Richard Foran, Assistant Secretary-General and official responsible for coordinating the return of such property, visited Iraq twice during the month of May 1991. The competent Iraqi authorities expressed their readiness to hand over the Kuwaiti property of which Iraq had already notified the Secretariat of the United Nations. A Kuwaiti civilian aircraft was, in fact, handed over at Amman on 11 May 1991. Mr. Foran also undertook a wide-ranging field visit and saw for himself the gold, coins, banknotes, civilian aircraft, museum antiquities and books that will be returned to Kuwait immediately an agreement is reached establishing a location for the handing over, it being understood that it is this property whose handing over Mr. Foran has determined should have priority at the present stage. The same procedures will doubtless be applied to other Kuwaiti property.

5. In connection with sections E and F, which relate to compensation and the lifting of sanctions, no measures are required on the part of Iraq.

6. In connection with section G of the resolution, the competent Iraqi authorities have taken and are continuing to take measures to repatriate all Kuwaiti and third-country nationals, and they have provided lists of their names and have facilitated the access of the delegation of the International Committee of the Red Cross (ICRC) in Baghdad to all such persons wherever detained. It should be mentioned that the number of those freed and repatriated has reached 6,366 (6,289 Kuwaitis, 36 Americans, 5 Italians,

13 Saudis, 17 Frenchmen, 1 Spaniard, 2 Brazilians, 1 Norwegian, 1 Uruguayan and 1 Irishman). The competent Iraqi authorities are still diligently searching for missing subjects of coalition countries with a view to finding them and repatriating them following registration by the ICRC delegation. The competent Iraqi authorities have directly facilitated all matters relating to the work of the ICRC delegation in the registration of Kuwaiti nationals present in Iraq, thereby enabling the delegation to register more than 3,000 Kuwaitis, and they have endeavoured to return the remains of 15 subjects of the coalition countries.

7. In connection with section H, which relates to international terrorism, it should be mentioned that Iraq is a party to the international conventions relating to numerous aspects of this matter and that it abides by the obligations set forth therein. Iraq has not supported any terrorist activities.

In providing you with these clarifications, we are prompted by the hope that you will deem it appropriate to take account of the facts set forth above in any review that the Security Council might intend to make of Iraq's position on the implementation of Security Council resolution 687 (1991).

(Signed) Ahmed HUSSEIN
Minister for Foreign Affairs
of the Republic of Iraq

Annex III

Statement of the Permanent Representative of Iraq to the United Nations concerning the draft resolution contained in document S/22942 of 14 August 1991, made to the Security Council on 15 August 1991

It is to be noted that the draft resolution is based on two underlying elements which feature in all of its preambular and operative paragraphs and which can be summed up as follows: the circumstances that presented themselves to the second inspection team in the course of its visit to Iraq from 22 June to 3 July 1991, as referred to in the third, fourth, fifth, eighth, ninth and tenth preambular paragraphs; and the resolution of the Board of Governors of the International Atomic Energy Agency (IAEA) of 18 July 1991, as mentioned in the twelfth preambular paragraph.

1. Iraq has already explained in a clear and unequivocal manner and on more than one occasion the circumstances encountered by the second inspection team. The high-level mission led by Mr. Rolf Ekéus was informed during its visit to Iraq of the details of these circumstances, and the Iraqi Government, at the highest levels, provided unambiguous assurances that the Iraqi authorities would provide all possible facilities to the inspection teams. In its report, the high-level mission referred to these assurances and stated that the future would show the extent to which the Government of Iraq would give effect to them. Since that time, several teams have visited Iraq, and a nuclear inspection team and a biological inspection team are still there at this moment. Iraq provided the third nuclear inspection team with all possible facilities and furnished it with an enormous amount of information, as was stated by the Director-General of IAEA at the news conference he held at United Nations Headquarters in New York on 30 July 1991. The leader of the fourth team, Mr. David Kay, has told the news agencies in Baghdad that his team is making progress, that it has obtained much information and that the Iraqis are cooperating with it. The other teams that have visited Iraq have given no indication that they encountered obstacles or any significant problems in their work.

Is it then reasonable, more than a month after the circumstances experienced by the second inspection team and given the excellent experience of cooperation with all the teams that have visited Iraq during this month, to maintain that Iraq is not cooperating and that it is not meeting its obligations? We had been hoping that the Security Council would express its satisfaction at the cooperation that the United Nations teams are receiving from Iraq rather than anticipating that it would adopt a new resolution condemning Iraq because of one incident. Most of the members of the same second inspection team are now in Iraq; they are receiving unparalleled cooperation; information is being exchanged on an immediate basis; and the Council can solicit the opinion of the team leader presently in Baghdad. Is this not one more indication of Iraq's commitment to the Security Council resolution in question? The Council must take this into account.

2. The Board of Governors of IAEA adopted a resolution on 18 July 1991 condemning Iraq for non-compliance with the Agency's safeguards system and informed the Security Council accordingly under the provisions of article XII.C of the Agency's statute. IAEA did not make this notification because it was a task assigned to it under the terms of Security Council resolution 687 (1991), and the notification is therefore no part of that resolution. The situation recorded by the Board of Governors is one that existed before the adoption of Security Council resolution 687 (1991), and that situation came to an end owing to the destruction inflicted on Iraq's nuclear installations. From the legal point of view, therefore, it is not valid that the present draft resolution, which has the appearance of being intended for the purpose of following up the implementation of Security Council resolution 687 (1991), should be based on a situation that existed prior to the adoption of that resolution. In no legal system does a law or a resolution have retroactive effect. The twelfth preambular paragraph cannot therefore be a consideration for the present draft resolution, and the same applies to operative paragraphs 2 and 3.

Moreover, the resolution adopted by the Board of Governors on 18 July contains two operative paragraphs that should be taken into account. The first, paragraph 3, calls upon Iraq to take remedial measures, and it has done this by means of the letters it addressed to the Director-General of IAEA on 10 and 12 July 1991 and the letters exchanged by the chief of the third United Nations inspection team and his Iraqi counterpart. There are no longer in Iraq any nuclear materials, installations or sites that have not been declared. Another operative paragraph of the same resolution, paragraph 7, refers the matter to the next regular session of the IAEA General Conference. This is the supreme authority of the Agency, and most of the world's countries are represented there. Does the present draft resolution seek to prejudge any resolution that might be adopted by the IAEA General Conference and thus deprive the General Conference of the right to decide on a matter that is within its jurisdiction? Under the terms of the Agency's statute, it can take any necessary measures against any of its members. Operative paragraph 2 of the present draft resolution prejudges a matter that is before the next session of the IAEA General Conference by virtue of a resolution of the Board of Governors.

3. With regard to paragraph 3 of the present draft resolution, we should like to assure the Council that the technicians on both sides, the members of the United Nations teams and their Iraqi counterparts, have reached agreement on clear procedures and have put them into effect in such a way as to ensure the convenience of the members of the teams and the speedy completion of the inspection task and to reduce the number of inspection sites to the extent possible so as to facilitate the future task of the teams. Agreement is reached between the two sides on the movement of materials and parts, and times and locations are established before movement is begun. This happened while the third inspection team was there, and it is now taking place while the fourth team is there, without any complications or superfluous bureaucratic formalities. The Council should welcome and record its satisfaction at the establishment of this mechanism, one that is facilitating the work of the inspection teams and reducing the amount of time lost.

4. In light of the foregoing, we feel that the resolution has no substance since it is largely covered by the agreement on the status, privileges and immunities of the Special Commission, IAEA and the inspection teams, an agreement which has been accepted by Iraq. From our point of view, this agreement is workable when the circumstances for cooperation and coordination are present and in our opinion they have come into being and the last month has demonstrated that they have become more firmly established.

5. We should like to ask the Special Commission and the IAEA inspection teams whether they have entered locations that they were previously prohibited from entering or were prevented from inspecting the items that they contain. According to our information, not a single location remains, as is indicated in the reports of the inspection teams, that the teams have not entered and whose contents they have not inspected. More precisely, there was one location around which commotion arose on 28 June 1991. The chief of the third nuclear inspection team agreed to the movement of the items there, equipment and machinery, to the Tuwaitha site. The removal was supervised by two of the members of the United Nations team, the team registered and photographed all of the items, and they were unloaded from the trucks under the supervision of members of the team. The United Nations team released the non-nuclear equipment for use in the reconstruction of basic services in Iraq, and the trucks left the Tuwaitha site under the supervision and with the agreement of the team. All of this is established in the lists and inventories exchanged by the third United Nations team and the Iraqi side. The equipment was stored in an orderly fashion in order to facilitate future inspection by the team. All of this took place quietly and without uproar. So what reason can there now be that the present draft resolution should contain operative paragraph 3? The Council should rather express its satisfaction at the practical steps that have been taken in this regard.

6. With regard to paragraph 3 (v), which refers to the right of inspection teams to use aircraft, we should like to state that Iraq is not against the use of helicopters or fixed-wing aircraft by inspection teams. What it would, however, like to make clear in this respect is that there are difficulties in ensuring the safety of such flights because of the present situation with regard to aspects of logistics, communications and control following the war.

7. Paragraph 4 of the draft resolution determines that Iraq retains no ownership interest in items to be destroyed, removed or rendered harmless. This text is not realistic from the detailed, technical point of view. It is neither wise nor economically feasible to abandon wrecked materials and equipment without returning them to use in other, civilian, industrial roles. Can it be that the scrap metal of a piece of equipment that has been destroyed should be abandoned rather than put to use by melting it down and reusing it for civilian purposes? Can it be that damaged copper piping, for example, should be left lying useless rather than be reused in meeting the Iraqi people's need for basic services? If the inspection teams render a machine harmless, then why cannot Iraq retain its right to use it for another purpose in which there is no harm? From these and other examples, we can see that this paragraph is not realistic and causes unjustifiable material damage to the people of Iraq.

The draft resolution before you not only lacks legal justification but constitutes a fresh violation of Iraq's sovereignty and imposes upon it new burdens under a veil of international legitimacy by seeking to have the Council adopt arbitrary resolutions. This reveals to the entire world that these resolutions are officially adopted by the majority of the Council but are actually part of an iniquitous and hostile policy directed against Iraq by means of which the neo-colonialist States are seeking to make of Iraq a deterrent example to other third world countries and a field of experiment for their schemes to intervene in the affairs of the other countries of the world in order to prevent them from being able to achieve economic development and exercise control over their oil and other natural resources and in order to impose their political hegemony on them.

It is saddening that certain Western States that are permanent members of the Council should make of it an instrument for the pursuit of illegal and hostile actions detrimental to peace and security in the region. They do so under the cover of international legitimacy and by seeking to have new resolutions adopted on one pretext or another in order to tighten their stranglehold on the Iraqi people and hold it hostage to their embargo and their economic sanctions. As long as the Iraqi people does not submit to the wishes of these States, its oil resources are to be held in pawn by them after the countries in question have consolidated their control of other sources of oil in the Arabian Gulf.